REMARKS

Summary

Claims 1, 3-9, 11-15, 17-20 and 22 stand in this application. Claims 2, 10, 16 ad 21 have been canceled. Claims 1, 7, 9, 11, 13, 15, 17, 19 and 20 are currently amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested

35 U.S.C. § 102

At page 2, paragraph 2 of the Office Action claims 1-8 and 15-22 were rejected under 35 USC § 102(e) as being anticipated by Chen et al. (U.S. 7,069,439 B1) (hereinafter "Chen"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 7, 9, 11, 13, 15, 17, 19 and 20 in order to facilitate prosecution on the merits. Applicant submits that the amendments merely clarify, either expressly or impliedly, what was already present in the claims. Furthermore, Applicant submits that the amendments are not narrowing amendments and are not being made for reasons substantially related to patentability.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Chen fails to teach each and every element recited in

claims 1-8 and 15-22 and thus they define over Chen. For example, with respect to claim 1, Chen fails to teach, among other things, the following language:

> dynamically generating a first set of integrity information for a first processing system by selecting an application from a plurality of applications to be executed by said first processing system, and generating said first set of integrity information for said application using a cryptographic algorithm;
> sending said first set of integrity information to a second processing system; and
> generating an attestation value for said first processing system by said second processing system using said first set of integrity information and a dynamic attestation module connected to said second processing system

According to the Office Action, this language is disclosed by Chen at Col. 11 lines 5-16. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Chen. Chen at the given cite, in relevant part, states:

> In step 540, the user receives the challenge response and verifies the certificate using the well known public key of the TP. The user then, in step 550, extracts the trusted device's 24 public key from the certificate and uses it to decrypt the signed digest from the challenge response. Then, in step 560, the user verifies the nonce inside the challenge response. Next, in step 570, the user compares the computed integrity metric, which it extracts from the challenge response, with the proper platform integrity metric, which it extracts from the certificate. If any of the foregoing verification steps fails, in steps 545, 555, 565 or 575, the whole process ends in step 580 with no further communications taking place.

As indicated above, Chen arguably discloses a method of authenticating user of a trusted platform using a trusted device such as a smart card. By way of contrast, the claimed subject matter discloses a method of "dynamically generating a first set of integrity information for a first processing system by selecting an application from a plurality of applications to be executed by said first processing system, and generating said first set of

integrity information for said application using a cryptographic algorithm." Chen arguably provides a method to authenticate a user of a trusted platform by authenticating a trusted device or smart card. Chen fails to disclose the dynamic authentication of applications that are to be executed by a first processing system after a user authenticated to use a trusted platform. Furthermore, the authentication of Chen is not done dynamically but instead is arguably initiated by the user of a trusted platform in order to gain access to the trusted platform. In fact, Chen fails to mention dynamic authentication or attestation within its disclosure. Consequently, Chen fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 3-6, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Chen.

Claims 7, 15 and 20 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7, 15 and 20 are not anticipated and are patentable over Chen for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 7, 15 and 20. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 8, 17-19 and 22 that depend from claims 7, 15 and 20, and therefore contain additional features that further distinguish these claims from Chen.

35 U.S.C. § 103

At page 4, paragraph 4 claims 9-14 were rejected under 35 USC § 103(a) as being unpatentable over Chen in view of Nakayama et al. (U.S. Pub. No. 2004/0147251 A1) (hereinafter "Nakayama").

Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. *See* MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 9-14. Therefore claims 9-14 define over Chen and Nakayama whether taken alone or in combination. For example, claim 9 recites language similar to claim 1. Applicant

respectfully submits that Chen fails to disclose the claimed subject matter as discussed above in relation to claim 1. Further, Applicant respectfully submits that he is unable to locate a teaching within Nakayama that discloses the claimed subject matter of claim 9. Consequently, Chen and Nakayama, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 9.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claims 11-14 is respectfully requested. Claims 11-14 also are non-obvious and patentable over Chen and Nakayama, taken alone or in combination, at least on the basis of their dependency from claim 9. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

Conclusion

For at least the above reasons, Applicant submits that claims 1, 3-9, 11-15, 17-20 and 22 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken

alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-9, 11-15, 17-20 and 22 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: November 26, 2007

KACVINSKY LLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529